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Issues in Vendor/Library Relations/Recalling a Book

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Issues in Vendor/Library Relations

Recalling a Book

by **Barry Fast** (Academic Book Center)
and **Judy Webster** (University of Tennessee)



When a publisher recalls a book, what are the obligations of librarians and booksellers? Recently Oxford University Press issued a recall of its book the *Shaping of the First Amendment* by Paul Murphy. Many librarians we talked to were critical of Oxford's handling of this matter. They felt that Oxford was vague, perhaps intentionally, in the working of its recall letter, and librarians were reluctant to cooperate. Some felt that, ironically, there was a First Amendment issue involved in this situation; others felt that Oxford's *apparent refusal* to pay for the cost of deaccessioning the book removed any motivation to comply with the return request.

It is not surprising that confusion and disagreement about this issue extends to the authors of this column. While our disagreement is not fundamental, it is divergent enough to split the column into two sections: one representing Judy's view and one Barry's. You will note that we agree on the basic conclusion that if books are recalled by the publisher, they should be returned. Our differences will emerge as you read on.

From Judy:

Publishers recall books for errors in factual data, for gross misprintings, and for manufacturing defects. Minor errors are usually handled with errata sheets. I cannot recall another case where a book has been recalled for "copyright problems" in my twelve years of acquisitions experience, though there certainly may have been one. Most of us were probably surprised to see the announcement first in our morning sign-on message from OCLC rather than in a correspondence direct from Oxford or our favorite bookseller. Being naturally skeptical, I decided to wait and see what developed. The next event was the appearance of the topic

in ACQNET taking the form of a discussion of whether to comply with the request. I telephoned our bookseller who supplied us the title and were told that a letter explaining how to return the title would be forthcoming. In due time, the letter arrived explaining that Oxford University Press had indeed experienced copyright problems and that the book was being recalled. We would be reimbursed for the price of the book plus shipping and handling charges.

At this point, I was still reluctant to return the book. I simply didn't feel that I had enough information about the circumstances of this unusual request from Oxford. Shortly thereafter, I attended ALA Midwinter Conference in San Antonio and found that Oxford's request was being widely discussed among librarians with plagiarism being the reason most often speculated as the particular "copyright problem" involved.

Upon my return, I was still not satisfied that enough facts had been gleaned from this situation, so I made several additional efforts at gaining insight into this case. I contacted three additional sources, a representative of Oxford University Press, a colleague who is an historian with a special interest in the constitution, and a university staff attorney. The editorial staff at Oxford would say no more than what was in the letter, i.e. "we have experienced copyright problems and please return the book." In my conversation with the Oxford representative, I was able to discover that the book would not be re-published. Otherwise, the response to every question was "we are not prepared to discuss that on the telephone."

From the historian who had purchased a personal copy of the book, I learned that the author is a well-re-

spected colleague in the field, and that the book was an adequate summary of first amendment issues that did not break any new ground. At my request, that historian called a colleague of his in a professional association to ask what was commonly known about the case. He was told that it was a very embarrassing situation for everyone concerned and that he should advise everyone he knew to return the book.

Our university attorney who regularly advises me on copyright issues expressed the opinion that the book should be returned in good faith. She recognized that we did not have very much information about the situation, but concluded that because of the financial loss to Oxford, the book would not have been recalled for trivial reasons. She advised that we return the book on the chance that it might cause some harm to society and that we do it in the spirit of cooperation even though we were not being compensated for our deaccessioning costs.

In the end, I decided to return the book. I have surmised that Oxford is under legal constraints and will not provide us with any additional information because of potential repercussions. Whether they could say more than they are saying, we cannot know. I do want to cooperate in the larger scholarly enterprise and be supportive of authors' rights to their intellectual property. However, I believe that plagiarism is a legal issue between and among authors and publishers that often involves out of court settlements rather than recalling a book. In the cases of out of court settlements, I do not believe that librarians have any other responsibility than to provide access to published information if requested

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by users. Neither do we bear the responsibility of searching out alleged cases of plagiarism in our stacks.

From Barry:

I think this is an important issue that is worth discussing. Let us ignore, for this purpose, the particular case of Oxford and its recalled book. If, as many feel, the larger issue of plagiarism and our obligations associated with it involve some of the basic tenets of our professions as librarians and booksellers, how should we act? Should we sell books that we know are plagiarized? How should we act when we are unsure of the validity of the plagiarism charges?

The last question seems the easiest to answer. If we are unsure if a book is plagiarized, we should evaluate the purchase of the book as we would any other. Allegations are just that, and we should await a legal ruling or an admission of plagiarism before deciding how to act. But what then? Suppose the author says "OK, you got me, I'm sorry, I'll never do it again, I plagiarized."

When we know a book is plagiarized, should we add it or keep it in our collection? Some would say that these are two different questions, that buying the book is an act while keeping the book is just not acting. Many people would act differently depending upon whether they are making a decision to buy the book or making a decision to return it.

The argument for not buying the book is twofold: when you buy a book that you know is plagiarized you reward both the author and publisher with money, despite the fact that they have knowingly stolen someone else's (intellectual) property. To the extent that plagiarism is theft, you have willingly bought stolen goods. The other argument is that society has established rules that regulate the use of intellectual property in order to protect all of us and make

research, and the fruits thereof, economically viable. If we buy plagiarized works, we subvert the economic basis of research, and if everyone did this, the pursuit of knowledge would collapse.

If you agree with that argument, what do you do about a plagiarized book that is already in your collection? Do you un-buy it? By returning the book and receiving credit for your earlier purchase, you deprive the publisher and author of money. They are, in effect, penalized for selling someone else's stolen property. By returning the book you are refusing to take part in a transaction that we all agree is damaging to society, and especially to the pursuit of knowledge.

Here is an analogy. Suppose a medical publisher informs you that a medical book you are selling contains a dangerous error. If physicians follow the directions in this book, they may injure or kill the patient. Do you remove the book from your collection? Do you refuse to sell it? The answer should be clear. The publisher has told us that this book contains erroneous and dangerous

misinformation, and it is our obligation as booksellers not to sell it or to return it if we own it. In this case we are not attempting to deprive the publisher or author of revenue in order to penalize them: because the publisher erred we simply want to protect society against an obvious danger.

Is a plagiarized book dangerous? Probably not on its own, but if plagiarism were rife and booksellers and librarians took no action against it, even without the active participation of the embarrassed publisher, society would suffer. Authors and researchers would feel little constraint if getting away with it were the norm. That is why there are laws prohibiting plagiarism, and it seems clear to me that we should, in all cases of proven or admitted plagiarism, refuse to participate in the purchase of the book. Booksellers should not sell books they know are plagiarized and librarians should return those books if they bought them. If the publisher does not own up to its responsibility to protect intellectual property, the rest of us have to take action to protect the rights of authors whose ideas or words have been stolen. ♣

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After nearly 2 decades in the field, I am thoroughly convinced that only publishers who effectively research, plan, and market their products will survive well over the next decade.

But you don't always have the time or the talent and expertise on staff to accomplish such specialized projects. It's not always possible to have a full-time researcher in house. That's the major reason why I founded MEYERS CONSULTING SERVICES. Since 1983, MCS has been helping publishers become more effective. So, when you need some help, call:

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